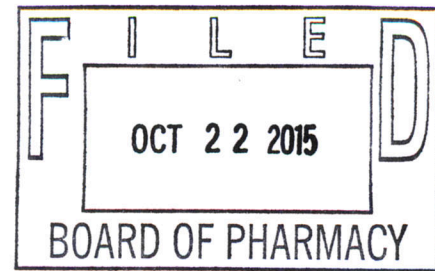


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE REGISTRATION OF	:	
Brian E. Walters, R.Ph.	:	Administrative Action
License No. 28RI1900700	:	
	:	CONSENT ORDER
TO PRACTICE AS A PHARMACIST	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Pharmacy ("Board") upon receipt of the petition of Brian E. Walters, R.Ph. requesting reinstatement of his license to practice pharmacy. Respondent's license had been suspended via Consent Order dated December 1, 2011, following Respondent's conviction of stealing over \$7,000 in drugs, specifically Nalbuphine Hydrochloride, and supplies from the prison pharmacy at the Federal Correctional Institution in Fairton, New Jersey, in violation of 18 U.S.C. §641 and 18 U.S.C. §2.

Respondent appeared and testified before a Committee of the Board on July 1, 2015 regarding his request for reinstatement. He was accompanied by Dr. Louis E. Baxter, Sr, Medical Director of the Professional Assistance Program. Respondent confirmed that, while employed by the Bureau of Prisons at the Fairton, New Jersey facility as pharmacist-in-charge, Respondent diverted Nalbuphine from the prison pharmacy for his own use. Thereafter, he completed in-patient treatment on two occasions. Since May 27, 2012, Respondent has been sober, adherent to his treatment plan, and has regularly attended Alcoholics Anonymous (AA) meetings four (4) times a week. Respondent has attempted to keep up with the practice of pharmacy by taking continuing education (CE) courses and reading pharmacy journals and periodicals. Dr. Baxter stated that Respondent understands that addiction is a chronic mental illness and that continued therapy is necessary to address his illness and continue down the path of recovery.

Respondent acknowledges that he has been out of the active practice of pharmacy for several years and testified that he would like to re-enter the practice in an institutional setting where he can be part of a healthcare team. Dr. Baxter supported this idea and believes that an institutional setting is the best environment for Respondent to re-enter the practice.

The Committee recognizes that Respondent has fully complied with the terms of his 2011 Consent Order, appears to be in a stable recovery at this time and has the support of the Professional Assistant Program. Nonetheless, Respondent has a documented history of drug abuse and has not practiced pharmacy for over four years.

The parties, having agreed to resolution of this matter without formal proceedings, and Respondent, having agreed and given his voluntary consent to the within order and waiving any right to a hearing, and the Board finding the within disposition adequately protective of the public health, safety, and welfare, and other good cause having been shown;

IT IS, therefore on this 22nd day of OCTOBER, 2015

ORDERED THAT:

- 1) Respondent's license to practice pharmacy in the State of New Jersey shall be reinstated immediately, subject to the terms of this Order.
- 2) Respondent must complete the Pharmacist Assessment for Remediation Evaluation (PARE) exam prior to the end of 2015;
- 3) Respondent must submit a written professional development plan to the Board, of how he intends to ameliorate any weaknesses identified by the results of the PARE exam. The plan should be submitted to the Board within 30 days of Respondent receiving the results of the PARE exam from NABP. This plan can include, but is not limited to, continuing education (CE) courses and on the job training;
- 4) Prior to employment as a pharmacist, Respondent shall submit to the Board proof of successful completion of a 1000-hour internship under the supervision of a Board approved preceptor who is aware of Respondent's history as outlined in this Order. The preceptor shall sign a copy of this Order indicating his agreement to supervise Respondent and report to the Board as required by this Order. The preceptor shall immediately (within twenty four hours of awareness of occurrence) report to the Board orally and in writing of any actions by Respondent in violation of this Order, any relapse

into addiction behavior, any positive urine and any violation of the statutes or regulations governing the practice of pharmacy. The Preceptor shall further agree to submit documentation to the Board at the conclusion of Respondent's internship indicating whether Respondent has successfully completed the internship. Successful completion means that his preceptor recommends unconditionally and without reservation that Respondent is ready to practice pharmacy without supervision.

5) Respondent shall continue to enroll in and comply fully with the monitoring program established for him by the Professional Assistance Program of New Jersey until further Order of the Board. Such monitoring program shall include but not be limited to:

- a. Absolute abstinence from all psychoactive substances including alcohol unless prescribed by a treating health care professional aware of his substance abuse history for a documented medical condition and with notification from the treating health care professional to the executive medical director of the PAP of the diagnosis and treatment regime within five days of issuing the prescription. Respondent shall advise all of his treating health care practitioners, who prescribe medications, of his addiction history and shall be responsible to ensure that the treating health care professional notifies the PAP of any prescription for a psychoactive substance within five days of issuance of the prescription. Respondent shall also personally notify the PAP of any prescription for psychoactive substance within five days of issuance of the prescription.
- b. Respondent shall attend support group meetings of Narcotics Anonymous and/or Alcoholics Anonymous at a frequency of not less than three meetings per week. Respondent shall provide evidence of attendance at such groups directly to the PAP on a form or in a manner as required by the PAP.
- c. Respondent shall undergo random witnessed urine monitoring under the supervision of the PAP on a random, unannounced basis, at a frequency of no less than twice per week for the first twelve months following Respondent's return to practice. Subsequent reductions in the frequency of urine screens shall be at the direction of the executive medical director of the PAP consistent with Respondent's duration in recovery with prior notification to the State Board of Pharmacy. All test results shall be provided in the first instance directly to the PAP and any positive result shall be reported immediately by the PAP to the Executive Director of the Board.

- d. The Board reserves the right to require a modification of the manner of the random witnessed urine testing by the PAP in the event technical developments or individual requirements indicate that a different methodology or approach is required to guarantee the accuracy and reliability of the testing.
- e. Respondent's failure to submit to or provide a urine sample within twenty-four hours of a request shall be deemed to be the equivalent of a confirmed positive urine test and shall be deemed a violation of this order unless Respondent is unable to appear for a scheduled urine test due to illness or other impossibility. Respondent must advise the Board in writing within two (2) days, and cause the PAP to so advise the Board in writing within (2) days, of a claimed illness or impossibility. If Respondent fails to appear for a scheduled urine test due to illness, Respondent shall provide to the Board, written substantiation of the illness in the form of a physician's report, within two (2) days. "Impossibility" means an obstacle beyond the control of Respondent that is insurmountable or that makes his appearance for the urine test so infeasible that a reasonable person would waive Respondent's requirement to give the urine sample that day.
- f. All random witnessed alcohol and drug screens shall be negative for the presence of alcohol or drugs, unless the drugs detected by screening were taken for a documented illness pursuant to a valid prescription from a health care practitioner aware of Respondent's substance abuse history. All positive results shall be confirmed by the Gas Chromatography Mass Spectrometry (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.
- g. Any urine test result showing creatinine levels below 20 mg/dl and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test, and shall be followed by a confirming test. The method of the confirming test shall be determined by the PAP.
- h. Respondent shall become familiar with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Respondent specifically agrees that ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.
- i. Respondent shall have monthly follow-up meetings with the PAP for the first year of active pharmacy practice, then meetings every two months for the next twelve (12)

months, and then at the direction of the PAP;

- j. Respondent shall be responsible to ensure that the PAP shall supply reports to the Board every ninety (90) days beginning on the "filed" date of this Order regarding his progress with the monitoring program.
- k. Respondent shall obtain the agreement of the PAP via a signature of its representative on this Order to notify the Board within 24 hours of its receipt of information of any noncompliant behavior, slip or relapse of impairment, including but not limited to any positive urine screen or failure to appear for urine monitoring or any scheduled appointment or any discontinuance of the PAP rehabilitation program whether initiated by Respondent or by the PAP.
- l. Respondent expressly waives any claim to privilege or confidentiality that he may have concerning reports and disclosures to the Board, and use by the Board of that information in any license proceedings, including reports and disclosures by the urine monitoring program, or the PAP, or any other person or entity involved in his rehabilitation program.
- m. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Respondent.

6) Respondent hereby consents to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that Respondent has failed to comply with any of the provision of this Order, any report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of the use of alcohol or any psychoactive substance which is not prescribed by a treating health care professional aware of respondent's substance abuse history, for a documented medical condition, and with notification to the PAP as described herein.

7) Respondent may contest the entry of any Order of automatic suspension by submitting, within five (5) days after receiving notice of the Order, a request for a hearing and specifying his reasons to contest the entry of such an Order. At any such hearing the sole issue shall

be whether any information received by the Board was materially false. In addition, the Board reserves the right to bring further disciplinary action.

8) A copy of this Order shall be provided to all employers where a pharmacy license is required for employment or where the respondent has access to medication, prescriptions or patient profiles. The respondent shall ensure that each employer notifies the Board in writing that he or she has received this Order prior to respondent beginning employment. The respondent shall inform the Board in writing no later than 10 days after any employment changes, including periods of unemployment, and shall also provide a detailed description of his job, role and responsibilities.

NEW JERSEY STATE BOARD OF PHARMACY

By: Thomas F.X. Bender, Jr. RPh
Thomas F.X. Bender, R.Ph.
Board President

I have read the within Order, understand and agree to its terms and agree to be bound by them. I consent to the entry of this Order.

Brian E. Walters
Brian E. Walters, R.Ph.

I agree to the monitoring and reporting requirements specified above on behalf of the Professional Assistance Program of New Jersey

Louis E. Baxter, Sr.
Louis E. Baxter, Sr., M.D., FASAM
Medical Director
Physicians Assistance Program